

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THEODORA MEDLEY

Plaintiff,

v.

S. PFITZER, et al.,

Defendants.

No. 2:22-cv-00227 DJC DB P

ORDER APPOINTING
LIMITED PURPOSE COUNSEL

Plaintiff, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. For the reasons set forth below, the court will appoint plaintiff counsel for the limited purpose of investigating plaintiff's claim and drafting and filing an amended complaint.

BACKGROUND

This action was transferred from the United States Court for the Central District of California to this court on February 3, 2022. (ECF No. 65.) On February 11, 2022, the court dismissed plaintiff's first amended complaint (ECF No. 10) and supplemental pleading (ECF No. 60) with leave to amend. (ECF No. 72.) Plaintiff appealed the court's order, and upon dismissal of the appeal, the court directed plaintiff to file a second amended complaint on or before July 17, 2022. (ECF Nos. 73, 75, 76 79, 81, 82.) Plaintiff did not file an amended complaint.

On February 6, 2023, the court directed plaintiff to file a second amended complaint or show cause in writing why this case should not be dismissed for failure to prosecute and failure to

1 comply with court orders. (ECF No. 84.) Plaintiff filed a response on March 13, 2023. (ECF
2 No. 86.) In it, she stated that the court had not “put [the case] in front of civil rights panel as
3 request[ed].” (*Id.* at 1.) This statement alludes to a September 1, 2021, order issued by the U.S.
4 District Court for the Central District of California, which referred this case to that court’s civil
5 rights panel to secure counsel for plaintiff. (ECF No. 11.) The case was transferred to this court
6 before she could obtain counsel. Plaintiff’s response further stated that the court “had [the]
7 complaint screen[ed] at [the Attorney General’s] Request a [second] time.” (ECF No. 86 at 1.) It
8 also appeared to include factual allegations with supporting exhibits. (*Id.* at 2–18; ECF No. 87 at
9 1–2.)

10 The court directed plaintiff to file a second amended complaint on or before July 21, 2023.
11 (ECF No. 87.) To date, plaintiff has not filed an amended complaint.

12 **APPOINTMENT OF COUNSEL**

13 In certain exceptional circumstances, the district court may request the voluntary
14 assistance of counsel pursuant to 28 U.S.C. § 1915(e)(1). Terrell v. Brewer, 935 F.2d 1015, 1017
15 (9th Cir. 1991); Wood v. Housewright, 900 F.2d 1332, 1335–36 (9th Cir. 1990). It may make
16 this request on its own motion. See Thorpe v. Hearn, No. 2: 19-cv-1974 KJM KJN P, 2021 WL
17 1238417, at *2 (E.D. Cal. Apr. 2, 2021).

18 The court finds the appointment of counsel for plaintiff is warranted for the limited
19 purpose of drafting and filing an amended complaint. Across multiple pleadings, plaintiff has
20 struggled to articulate her claims and does not appear to understand that she must file a second
21 amended complaint to proceed with his action. (See ECF No. 86.) As a result, she has been
22 unable to comply with the court’s orders, despite her attempts to prosecute this action. (See ECF
23 No. 87 at 2.) Carter C. White and the King Hall Civil Rights Clinic have been selected from the
24 court’s pro bono attorney panel to represent plaintiff for this limited purpose and have agreed to
25 be appointed.

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CONCLUSION

Accordingly, IT IS HEREBY ORDERED that:

1. Carter C. White and the King Hall Civil Rights Clinic are appointed as limited purpose counsel in the above titled matter. This appointment is for the limited purpose of investigating the claim, then drafting and filing an amended complaint. The amended complaint is due 120 days from the date of this order.
 2. Carter C. White and the King Hall Civil Rights Clinic's appointment will terminate when plaintiff's amended complaint is filed, or files a notice that an amended complaint would not be appropriate.
 3. Appointed counsel shall notify Sujean Park via email at spark@caed.uscourts.gov if they have any questions related to the appointment.
 4. The Clerk of the Court is directed to serve a copy of this order upon Carter C. White, King Hall Civil Rights Clinic, UCD Clinical Program Bldg. TB 30, 1 Shields Ave., Davis, CA 95616.

Dated: August 23, 2023


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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